

# EXHIBIT H

**Sanko, Clinton**

**From:** Geercken, Karl [Karl.Geercken@alston.com]  
**Sent:** Friday, July 06, 2007 10:24 AM  
**To:** Federbush, Alan; Manning, Amy; Ramage, Edward  
**Cc:** kathy.helmer@klgates.com; bpickens@spencerfane.com; Johnson, Micheline; Sanko, Clinton; David, Todd; Davis, II, Carl M.  
**Subject:** RE: Duane Subpoena

Dear Alan:

This e-mail is in response to your letter of yesterday regarding the subpoena issued and served to Ray Duane.

First, we wanted to confirm that you indicated that your firm is going to represent Mr. Duane in connection with the subpoena. If this is incorrect, please let us know immediately and we will address future correspondence to Mr. Duane directly.

Second, we understand that you are planning on serving Mr. Duane's responses and any objections to the subpoena categories by today, in accordance with the deadline on the subpoena. You informed us that the number of documents and amount of electronically stored information ("ESI") is "small" because you understand Mr. Duane's involvement with the DenTek dental protector was and is minimal. You also indicated that any responsive documents would be produced by next Wednesday (July 11, 2007).

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Please let us know if this is acceptable to you.

Thank you in advance,

Karl Geercken  
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New York, New York 10016  
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[www.alston.com <http://www.alston.com/>](http://www.alston.com/)

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From: Federbush, Alan [mailto:[AFederbush@proskauer.com](mailto:AFederbush@proskauer.com)]

Sent: Thursday, July 05, 2007 10:58 AM

To: Geercken, Karl; Manning, Amy; [eramage@bakerdonelson.com](mailto:eramage@bakerdonelson.com)

Cc: kathy.helmer@klgates.com; bpickens@spencerfane.com; [mjohnson@bakerdonelson.com](mailto:mjohnson@bakerdonelson.com); [csanko@bakerdonelson.com](mailto:csanko@bakerdonelson.com); David, Todd; [cdavis@bakerdonelson.com](mailto:cdavis@bakerdonelson.com)

Subject: Duane Subpoena

Please see the attached letter.

<<NY SCAN.pdf>>

Regards,

Alan Federbush| PROSKAUER ROSE LLP

1585 Broadway | New York, NY 10036-8299

Voice: 212.969.3211 | Fax: 212.969.2900

[afederbush@proskauer.com](mailto:afederbush@proskauer.com) | [www.proskauer.com](http://www.proskauer.com/index.html) <<http://www.proskauer.com/index.html>>

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Sanko, Clinton

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**Sent:** Friday, July 06, 2007 1:20 PM  
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Dear Karl:

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As I indicated to Mr. Sanko and Mr. Ramage on the phone yesterday, Proskauer Rose will be representing Mr. Duane in connection with the subpoena.

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Case 7:07-cv-03302-KMK-LMS Document 42-9 Filed 07/09/2007 Page 6 of 11

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**Subject:** RE: Duane Subpoena

Dear Alan:

Thank you for your e-mail and we have given some thought to your suggestions.

Our client declines to withdraw the subpoena.

The Court's Scheduling Order contemplates taking non-party depositions earlier in the process if the parties consent or the Court permits it (see scheduling order para. 3.c). We are happy to consider a short adjournment of the deposition if the noticed date--or July 12 or 13 as suggested below--is not a workable date for you or your client. Please simply let us know what date would work for the depositions.

These depositions are necessary given the new information which we have learned about Mr. Duane's employment with DenTek, as discussed below. Given the limited documents that Mr. Duane is represented to possess, his deposition preparation should be minimally burdensome. Moreover, my client believes that Mr. Duane's deposition now, versus later, will streamline the discovery process and move things forward more quickly for the party depositions.

As to the document request portion of the subpoena, you have not indicated any reason why that part of the subpoena is objectionable. As such, we expect documents will be produced as requested. If you are not able to produce documents on July 11, 2007, please let us know how long of an extension you need so that we can address any extensions with our client.

We look forward to moving forward as expeditiously as possible with discovery in this case.

Best regards,  
Karl

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